

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	GN Docket No.13-5
Technology Transitions)	
)	
Policies and Rules Governing Retirement Of)	RM-11358
Copper Loops by Incumbent Local Exchange)	
Carriers)	
)	
Special Access for Price Cap Local Exchange)	WC Docket 05-25
Carriers)	
)	
)	
AT&T Corporation Petition for Rulemaking to)	RM-10593
Reform Regulation of Incumbent Local Exchange)	
Carrier Rates for Interstate Special Access Services)	

COMMENTS OF AT&T

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I. INTRODUCTION AND SUMMARY

The Commission has long touted its commitment to promoting investment and innovation in telecommunications infrastructure and to reducing barriers to deployment of broadband capabilities. It also has recognized the key role that technology transitions play in that process and that those transitions will require that legacy networks be retired not merely supplemented.

The new approach that the Further Notice proposes for evaluating whether incumbent LECs should be allowed to replace legacy TDM services with the same types of next generation IP services that they and many other providers are already successfully offering in the marketplace is flatly inconsistent with the Commission's stated support for the IP transition and

its role in speeding broadband deployment. Instead of facilitating the replacement of yesterday's TDM networks with advanced IP networks that are far more capable and efficient, the Further Notice proposes to lay down obstacles to that transition under the misguided belief that those barriers are needed to remain faithful to historic values that have guided this Commission for decades – namely, universal service, public safety, consumer protection, and competition.

AT&T fully supports those values and is committed to upholding them as it transitions from TDM to IP services. It has made that clear in its numerous filings in this docket and in its IP transition trials. But the days in which the Commission must micromanage monopoly services to preserve those values are long gone. By the end of this year, AT&T estimates that *only 14%* of the housing units in the states in which AT&T is deemed the incumbent LEC will purchase residential TDM voice service from an incumbent LEC.¹ Virtually all other households that purchase voice service will have transitioned on their own to a service other than ILEC-provided TDM voice service — none of which will be subject to the panoply of regulatory burdens the Commission now seeks to inject into the section 214 process² for the remaining 14%.

That the vast majority of consumers have *chosen* to make this switch demonstrates that they prefer these alternatives to legacy services. And it further demonstrates that incumbent

¹ See Attachment A, Statewide Change in Housing Units and ILEC Residential Lines AT&T States, December 1999 - December 2015. This data includes all ILEC lines that operate in the same states as AT&T's ILECs; *See also* Voice Competition Data Support Regulatory Modernization, By Patrick Brogan, U.S. Telecom, Vice President of Industry Analysis., dated November 24, 2014, http://www.ustelecom.org/sites/default/files/documents/National%20Voice%20Competition%202014_0.pdf (last checked October 19, 2015) (Reports that traditional landlines were approaching 20 percent of households and this figure will drop toward 15 percent over the next couple of years (Chart 1), and by the end of 2015, ILEC switched connections will represent 11 percent of U.S. voice connections (Chart 3)).

² See 47 C.F.R. §§ 63.61 – 63.90 (Requirements for carriers subject to Section 214 of the Telecommunications Act to request authority from the Commission to discontinue, reduce or impair interstate or foreign telephone or telegraph service to a community or part of a community).

LECs do not remotely possess the market power that was the basis for intrusive Commission regulation. Yet the Commission cannot find its way to abandoning its perception of incumbent LECs as monopolists or to actually trusting the decisions consumers make. Thus, in its recent *Technology Transition Order*, the Commission has reimagined section 214 as a vehicle for protecting competitors under the pretense that it is protecting consumers. And now, in the *Further Notice*, the Commission proposes a slew of regulatory hurdles that only incumbent LEC providers of legacy TDM services must meet before they can withdraw their TDM services and offer only IP services.

For multiple reasons, these proposals make no sense. First, they are unlawful. Section 214 permits the withdrawal of services when there is an “adequate substitute.” But the Commission’s proposals do not gauge adequacy. They fail to accord any weight to the numerous and significant advantages of IP services over TDM services — advantages the Commission itself has acknowledged — while requiring that IP networks meet or exceed TDM networks with respect to a laundry list of metrics covering everything from service quality and functionality to network capacity, security, and reliability. In fact, the Commission goes so far as to propose that IP networks be required to offer high definition (HD) voice capability, even though TDM networks do not have that capability.

Second, these proposals are unnecessary. While the Commission claims that they are needed to safeguard enduring values, the reality is that the proposals would affect only the small minority of households that have not already made the transition off of legacy voice networks. To the extent important values are at issue — and AT&T agrees that they are — these values should be addressed through rules of general applicability, not through the section 214 process

for the small percentage of households that continue to subscribe to ILEC-provided TDM voice services. In fact, there are already rules in place to do just that.

Beyond that, the decisions of so many consumers to replace their TDM services with IP services is powerful evidence of what consumers consider to be an “adequate substitute.” But instead of taking its cue from that evidence, the Commission ignores it and appears poised to substitute its own incongruous regulatory prescription – one that pays lip service to the “adequate substitute” standard but, in fact, imposes a “superior service” standard. There is no need for the Commission to prescribe detailed service quality and functionality standards on replacement IP services; indeed, the Commission does not even consider the extent to which robust competition in the provision of IP services is ensuring that consumer needs are met.

But the Commission’s proposals are not merely unlawful and unnecessary. They would be affirmatively harmful because, if adopted, they would greatly impede the deployment of broadband infrastructure, especially in rural America. IP services offer countless advantages over TDM services; that is why so many consumers are electing to replace their TDM services with IP alternatives. But the “adequate substitute criteria” the Commission proposes turn a blind eye to those advantages in favor of a rigid, backward-looking set of parameters that are built for rejection. For example, wireless broadband technologies, which often represent the best and perhaps only path to broadband deployment in rural America, would almost certainly trip up on the Commission’s criteria that any replacement service offer the same or greater capacity and reliability and all of the same functionalities as legacy voice services. And if incumbent LECs are not permitted to withdraw their TDM services and retire their TDM network when they deploy a replacement broadband network, that broadband network is far less likely to be built, as

the Commission has recognized. Other proposed criteria are so vague and potentially open-ended, they are sure-fire recipes for regulatory disputes and delays.

Despite its tentative conclusions, it's not too late for the Commission to correct its course. To that end, the Commission should dramatically scale back its proposals so that the section 214 process does not stand in the way of investment in IP networks and their broadband capabilities. To the extent the Commission believes that regulation of IP services remains necessary, it should impose those regulations through rules of general applicability, not by injecting them into the section 214 process.

II. THE COMMISSION'S PROPOSED CRITERIA FOR JUDGING ADEQUATE ALTERNATIVE SERVICES ARE INCONSISTENT WITH SECTION 214.

The Commission's proposal improperly expands the "adequate substitute" factor of the section 214 analysis. The Act simply requires the Commission to determine whether a proposed discontinuance of service will adversely affect the "public convenience and necessity."³ In applying this standard, the Commission has historically considered five factors and has balanced the interest of the carrier discontinuing the service with the affected community. One of those factors is the existence, availability, and adequacy of alternatives.

In applying this factor, the Commission has until now taken a holistic approach. It has never required that the alternative service "meet or beat" the discontinued service with respect to each and every one of multiple detailed metrics. And it certainly has not done so without taking into account countervailing advantages of the new service. That is as it should be. Rarely will a new technology duplicate each and every capability of a legacy technology, but that hardly means that, on balance, it is not an "adequate substitute." Indeed, in some instances, the new

³ 47 U.S.C. § 214(a).

technology obviates the need for the legacy service. For example, the ubiquitous use of cellphones has almost completely displaced the use of calling cards, dial-around, and other operator service functionality. But the Notice would require that *all* of those functionalities, as well as every other functionality of TDM services, be offered for an IP service to be considered an “adequate alternative.” And it likewise proposes metrics that would require that service quality; network capacity and reliability; device and service interoperability; information security; and service functionality all meet or exceed what is available on TDM networks in order for an IP service to be deemed an “adequate substitute.” It even proposes to require that high definition (HD) voice service be offered – a capability that is *not* available on TDM networks.

This is not a proposal to gauge “adequacy.” It is a proposal to mandate superiority and dictate the terms and conditions on which new, largely unregulated services are provided. If there is merit to any of the metrics the Commission has proposed, and the Commission has the authority to mandate those metrics, there is a path for the Commission to do just that – the rulemaking process. Hijacking the section 214 process and turning it into a vehicle for micromanaging service quality, functionality, and capabilities is not an appropriate or lawful exercise of the Commission’s authority. Indeed, the Notice fails even to address for how long the proposed requirements would persist. Does the Commission mean to suggest that a section 214 application would commit an incumbent LEC to meeting all of the proposed metrics in perpetuity, regardless of how technology changes and the market develops? If not, for how long? Or is the Commission suggesting that any deviation from any one of these standards would require a waiver? These questions, which the Notice fails even to raise, underscore that it is inappropriate to regulate services through the backdoor via the section 214 process. Rather than

process should ensure, as it always has up until now, a basic level of substitutability without micromanaging every last detail of network performance, capabilities, interoperability, etc.

The Commission's proposal is all the more troubling insofar as the Commission pays no heed whatsoever to the decisions huge numbers of consumers already have made. By year end, virtually all of the households in the AT&T-ILEC states will have made the judgment that services provided over alternative technologies, including wireless, are better than legacy TDM voice services. There is no need for the Commission to second guess these judgments; consumers know what they want and need, and they would not have abandoned TDM services in droves if providers of IP services were not offering adequate substitutes. That the Commission wholly ignores the capabilities of existing IP services and the judgments consumers have made with respect to them only underscores that the Commission's agenda here is not to ensure the availability of "adequate substitutes," as section 214 requires, but to micromanage the capabilities of IP services.

Worse yet, the Commission betrays a continuing bias against incumbent LECs. All of the metrics the Commission proposes will only apply to incumbent LECs, and not to the providers that already serve the vast majority of the households in the AT&T-ILEC region.⁴ The Commission insists that the proposals are necessary to preserve "enduring values," but if these values are truly "enduring," one would expect them to be reflected in "industry-wide" requirements. It makes no sense to pursue these values through requirements that will address only 14% of households. Nor does it make sense to impose them on one set of providers of IP services, and not others. The Commission has long recognized that asymmetric regulation

⁴ See *supra* note 1 (Projecting that by end of 2015, 86% of housing units in the states where AT&T operates as an ILEC will subscribe to voice service from providers other than ILEC TDM voice service).

distorts the operations of market forces to the detriment of consumers. The Commission should not carry forward legacy asymmetries into the highly competitive marketplace for new IP-based services.

The Commission contends that these criteria will facilitate the IP transition by providing clarity as to what is expected. Regulatory clarity is certainly desirable. But a clear vision of an obstructed path is not. To encourage the deployment of advanced infrastructure, the Commission should modify its existing proposals so that they reflect what section 214 actually requires – adequate substitutes. In reality, as the Commission has recognized, and consumers have demonstrated, IP services are more than adequate substitutes; they are superior in numerous respects. But the Commission must recognize that the transition will entail trade-offs and that it will fail if the new services are bogged down with requirements to replicate all of the features and characteristics of the old network⁵.

Congress itself recognized that technologies and services evolve and that carriers should not be locked into the past as it directed the FCC in determining the services that are supported by USF to consider the extent to which such services have “through operation of market choices by customers, been subscribed to by a *substantial majority* of residential customers.” 47 U.S.C. § 254(c)(1)(B) (emphasis added). Under that criterion, traditional telephone services no longer would qualify for USF support. It's hard to see how or why the FCC reasonably could require carriers through the 214 process to continue offering services (including features and functions) that would not qualify for support using the criteria pronounced by Congress.

⁵ As AT&T explained previously, carriers should not be required to support applications or features with rapidly declining market demand or applications based on outdated technologies. See AT&T Proposal for Wire Center Trials, Technology Transitions, GN Docket No. 13-5, at pp. 44-45, filed February 27, 2014.

III. THERE IS NO NEED FOR DETAILED METRICS, BUT IF THE COMMISSION ADOPTS SUCH METRICS IT MUST MODIFY THE METRICS PROPOSED IN THE FNPRM

The Commission has already recognized the consumer benefits of IP networks. It has observed that “[m]odernizing communication networks can dramatically reduce network costs, allowing providers to serve customers with increased efficiencies that can lead to improved and innovative product offerings and lower prices. It also catalyzes further investments in innovation that both enhance existing products and unleash new services, applications, and devices, thus powering economic growth. The lives of millions of Americans could be improved by the direct and spillover effects of the technology transitions, including innovations that cannot even be imagined today.”⁶ The Commission also has recognized that regulations requiring carriers to maintain POTS are “not sustainable,” and “can have a number of unintended consequences, including siphoning investments away from new networks and services.”⁷

These observations should lead the Commission down a path that *encourages* the IP transition. And given the vigorous and growing competition that exists for those services and the fact the vast majority of consumers already have abandoned TDM services for an IP alternative, the Commission should have no trouble concluding that IP services are an “adequate substitute” for TDM services irrespective of any metrics the Commission might promulgate. Market forces already ensure that is the case. For example, the service functionality of cable-provided digital

⁶ *Technology Transitions*, GN Docket No. 13-5; *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353; *Connect America Fund*, WC Docket No. 10-90; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Numbering Policies for Modern Communications*, WC Docket No. 13-97, *Order, Report and Order and Further Notice of Proposed Rulemaking*, *Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative*, FCC 14-5, 29 FCC Rcd. 1433 at ¶ 2 (2014).

⁷ FCC, *Connecting America: The National Broadband Plan*, at p. 59 (2010).

voice services, which were not subject to a service functionality mandate, work with the vast majority of alarm systems, and fax machines.⁸ Yet, these providers didn't need a regulatory mandate to ensure their services operated with devices that their customers used. Instead, the market dictated the requirements of a successful voice service, and cable and other providers designed their voice services to meet that demand, or face the consequences of the market.

For these reasons, there is simply no need for metrics relating to service quality, device and service interoperability, communications security, or service functionality. At the same time, other proposed metrics – those relating to the availability of emergency services and service to those with disabilities – are more appropriately addressed through industry-wide rules than a section 214 process that will affect, the small minority of households in AT&T's serving area. Thus, the only necessary inquiry in the section 214 context is the extent to which the substitute service will be available to those whose legacy services will be discontinued.

But if the Commission nonetheless insists on establishing section 214 metrics, it must revise its proposed metrics so that they do not stand in the way of the IP transition or exceed the proper boundaries of section 214's "adequate substitute" standard. The proposed standards suffer from both of those flaws. Indeed, under the proposed standards, wireless broadband networks with far greater capabilities than legacy TDM networks would not pass muster as an adequate substitute for a POTS network. Today's wireless networks offer extremely high service quality, as evidenced by the fact that nearly half of all U.S. households have cut the cord

⁸ [http://customer.xfinity.com/help-and-support/phone/home-alarm-systems-phone/;](http://customer.xfinity.com/help-and-support/phone/home-alarm-systems-phone/)
<http://customer.xfinity.com/help-and-support/phone/incompatible-equipment-phone/?CCT=53BA3D76CB1473BFF49C79FE4AA86DFF1EE2DE626F409A59EE7F3393966751A0CC79BEFEC55F6C20527CD6D66C94C99757F011CF9613ED3C640E21A2AB3C46103B68CB2B00466D408ABC75340B5A0D431F6016EE3C8478C3D92F14366027A45245A880D83B7FAFED923FB20AC58EFBCA>.

altogether and large numbers of others use their wireless device as their primary device.⁹ And wireless services represent the fastest and possibly only viable path to broadband for much of rural America. But by their very nature, wireless networks may not be able to meet or exceed service quality metrics established for legacy voice services or offer the same or greater reliability and capacity as legacy wireline networks. Unless the Commission modifies its proposed criteria, it will impede its own goal of speeding broadband deployment in rural areas.

The Commission notes that Public Knowledge has suggested that only a wireline service can be an adequate substitute for a legacy wireline service and seeks comment on that suggestion. This proposal loses sight of what the statute requires. Section 214 does not dictate that any discontinued service be replaced with the same type of service; it merely requires an adequate substitute. There is no legal basis for categorically excluding wireless services from consideration, particularly insofar as so many consumers have demonstrated by their actions that wireless services *are* adequate substitutes for legacy wireline services. And any conclusion to the contrary would run squarely into section 706 which compels the Commission to promote advanced telecommunications capability.

Also flawed is the Commission's "service functionality" standard. In proposing that standard, the Commission states that consumers "have come to expect" that their phone service provides certain functionalities, including alternately billed arrangements and various operator service functionalities, and on that basis it tentatively concludes that "any replacement offered by the requesting carrier or alternative service available from other providers in the relevant service area permit similar service functionalities as the service for which the carrier seeks

⁹ Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2014, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, Released June, 2015.

discontinuance authority.”¹⁰ But these functionalities and services have been displaced by wireless services and demand for them has dropped precipitously. Indeed, since 2004, AT&T’s operator handled traffic volumes have dropped by 93%.¹¹ The Commission’s service functionality standard needs to reflect these changes in consumer needs; the IP transition should not be held hostage to dying services for which there is little and diminishing demand. Indeed, because wireless services have displaced alternately billed arrangements and operator service calling, they are not even capable of providing these functionalities. Here, again, the Commission’s proposal threatens to thwart deployment of wireless broadband services.

So, too, the Commission must clarify its device and service interoperability proposal. The only functionality the Commission cites in its discussion of the need for service interoperability is the ability to transmit low-speed modem signals. Low speed modem signals support fax machines, point of sale terminals, alarm and medical monitoring equipment, and analog-only caption telephone sets. Requiring that replacement services transmit low speed modem signals so that mainstream equipment used for these functionalities can be supported is one thing; requiring that providers of replacement services divine any and all uses that customers may be making of their network and accommodate such uses in any replacement service is quite another. Even the low-speed modem services the Commission identifies are in the midst of their own IP transition and are migrating their customers to IP replacements that have emerged. Thus

¹⁰ *Technology Transitions*, GN Docket No. 13-5, *Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358, *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, Report and Order, Order on Reconsideration and Further Notice or Proposed Rulemaking, at ¶ 229 (rel. August 7, 2015).

¹¹ The only operator handled service with any material volume is collect calling and that service is offered today by various unaffiliated service providers on a nationwide basis.

if the Commission adopts the transmission of low-speed modem signals as an adequate substitute criteria, it should sunset this criteria in five years.

The Commission also seeks comment on how to evaluate network security risks in the section 214 process, but for all of the reasons stated herein, those concerns are not properly addressed in that context. The Commission and the industry have traditionally worked through organizations such as the Communications Security Reliability and Interoperability Council (CSRIC) to address cybersecurity concerns. Chairman Wheeler recently acknowledged that CSRIC's network assurance model "will provide much needed accountability for network security, while avoiding a top down prescriptive regulation of best practices." Certainly if this process is adequate for the Commission to evaluate security programs for the nation's most critical infrastructure, it should be adequate to evaluate the security measures that companies take in replacing legacy services. There is no reason to believe that work will cease.¹²

Finally, emergency services and service for individuals with disabilities raise regulatory issues that should be dealt with directly and in a manner that will address the issues uniformly across the industry. The Commission already has requirements applicable to 911 service and service to PSAPs,¹³ and it has rules that address service compatibility for individuals with

¹² (Remarks of FCC Chairman Tom Wheeler, RSA Conference, April 21, 2015 at <https://www.fcc.gov/document/chairman-wheeler-rsa-conference-san-francisco-ca> (last checked October 23, 2015)).

¹³ See e.g. 47 CFR Part 9 (Interconnected Voice over Internet Protocol Services); *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 04-36 and 05-196, 20 FCC Rcd 10245 (2005); *Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75, and 11-60, Report and Order, FCC 13-158 (re. Dec. 12, 2013). See also 47 CFR § 20.18 (911 Service for CMRS Services).

disabilities.¹⁴ To the extent the Commission wishes to adopt additional requirements in these areas, it should propose such requirements in a rulemaking proceeding of general applicability.¹⁵ It makes no sense to pursue these goals in the context of section 214 applications by a handful of carriers and that address service to a small minority of customers.

IV. THE COMMISSION SHOULD ESTABLISH A DISCONTINUANCE PROCESS THAT PROVIDES CERTAINTY FOR LEGACY SERVICE PROVIDERS DURING TECHNOLOGY TRANSITIONS.

In the interests of offering greater regulatory certainty, the Commission should automatically grant section 214 applications that meet these modified criteria without public comment. Applications that do not meet the criteria should be addressed on a holistic case-by-case basis that takes into account the advantages, as well as disadvantages, of the substitute service, along with the other considerations that are part of a section 214 analysis.

The Commission's proposed "automatic grant" for the 214 approval process will not provide the certainty the Commission suggests and that should be provided when a carrier certifies compliance with whatever factors the Commission ultimately adopts as adequate substitute criteria. The Commission proposes that when a carrier files its 214 application seeking to discontinue a legacy service that includes a certification and demonstrates that its new service

¹⁴ See 47 CFR Part 6 (Access to Telecommunication Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities); 47 CFR Part 7 (Access to Voicemail and Interactive Menu Services and Equipment by People with Disabilities); 47 CFR Part 14 (Access to Advanced Communications Services and Equipment by People with Disabilities); 47 CFR § 20.18(c) (TTY Access to 911 Services); 47 CFR Subpart F, §§ 64.603 & 64.604 (Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities).

¹⁵ For example, the Commission should open a rulemaking proceeding to explore any rule changes that may be necessary to allow real-time text communications to replace TTY as the technology of choice for persons who are deaf, hearing or speech impaired. Such a rulemaking is the only way to ensure that any rules found to be necessary are applied equally to all IP-voice providers. See Petition of AT&T Services, Inc. for Rulemaking, PS Docket Nos. 11-153, 10-255, WC Docket No. 04-36, CG Docket Nos. 03-123, 10-213 (filed June 12, 2015).

meets each of the adequate substitute criteria, that carrier would be eligible for “automatic grant” of its application. But that eligibility includes a contingency: *if* someone disputes the certification, then there is no automatic grant, and “the carrier would be required to submit information demonstrating the degree to which it meets or does not meet each factor[.]” In this respect, the Commission’s approval process associated with the so-called “automatic grant” is actually the same as today’s streamlined process, i.e. the Commission issues a Public Notice requesting comments from any interested party, and the status of the application remains uncertain as the Commission retains the option to remove the application from the streamlined process.

Furthermore, the Commission has proposed no time frame or process to ensure expeditious review of § 214 applications that are not automatically granted. The lack of any such deadline or process will fuel incentives for regulatory abuse as providers that already have transitioned to alternative technologies intervene in 214 discontinuance proceedings to stall the transition of their competitors.

The Commission should remedy this opportunity for gamesmanship. If a carrier certifies compliance with the Commission’s requirements with the “adequate substitute” standards, the Commission should automatically grant the 214 application based on that certification without public comment, absent a facial defect in the application or certification. The Commission’s rules prohibit carriers from making false or misleading statements to the Commission in application proceedings, and also requires applicants to update the record if an applicant becomes aware that its pending application contains information that is no longer substantially

accurate or complete in all significant respects.¹⁶ Should an applicant violate one of these rules and submit false or misleading information in its 214 certification, it would be subject to fines and forfeitures.

If the Commission nonetheless believes that the certified §214 automatic grant process described above does not provide sufficient Commission oversight, then it could require that the first technology transition §214 application that is filed by a carrier for a specific service in a geographic area be via a certified approval process and, if granted, any subsequent §214 applications for the same service in different geographic area that includes a certification to the adequacy of alternative retail services should be automatically granted without public comment. This option may assuage the Commission's need to obtain public comment on the technical aspects of a carrier's new services. Both of these alternatives provide more certainty than the existing rules and the Commission's proposals.

Likewise, in order to provide more certainty to the process, the Commission should also prescribe timeframes for issuing public notices associated with 214 applications, and establish a timeframe for an automatic grant of the application if the FCC fails to act on it within a specific period of time, i.e. if the FCC takes an application out of the streamlined approval process, there should be a deadline for Commission action so that carriers can move forward with the transition or seek appropriate review if the FCC denies the application.

¹⁶ See 47 CFR §§ 1.17 and 1.65.

V. OTHER ISSUES.

A. Customer Outreach and Education:

The Commission proposes to require that the 214 application evaluation process for the discontinuance of legacy services include an evaluation of the carrier's customer outreach and education. This is unnecessary. Clearly, it is in the carrier's interest to educate its customers about new services in order to retain them through the transition. Carriers do not need the Commission flyspecking its customer education materials. If the Commission feels that general consumer education is warranted, it can create its own communication plan as it did for the digital TV transition.

B. Customer Notification Process:

The Commission also seeks comment on the general 214 process, including the customer notification process and notification timeframes. AT&T agrees that the Commission should explicitly allow 214 customer notifications to be sent via email or via any other means to which the customer has agreed in the terms of service or contract applicable to the service being discontinued.¹⁷ The Commission's rules should reflect the fact that many customers prefer to receive electronic notices concerning their services and do not want to receive paper notices.

C. Rural Exemption:

The Commission's proposal to exempt rural carriers from any or all of the criteria that the Commission adopts is at odds with the Commission's stated values for the technology transition. If the Commission really believes in the values of the Network/Social compact, AT&T does not

¹⁷ Indeed, there is nothing in the current rule that prohibits 214 customer notifications from being sent via email. The existing rule, 47 CFR § 63.71, only requires that the customer notification be in writing, and does not proscribe how the written notice must be sent.

understand why rural carriers should have a different process to discontinue legacy services, or why the criteria is any less important for rural customers than other customers. If the criteria are important enough for the Commission to impose on any carrier, they should be important enough to apply to rural carriers as well.

D. Copper Retirement – Good Faith Requirements:

There is no need for the Commission to adopt a checklist to evaluate whether carriers are working in good faith to provide interconnecting carriers with information they need to plan for copper retirements. The Commission did not change the existing requirements that oblige carriers to provide specific information: type of network change planned including, as applicable, references to technical specifications, protocols, standards, facility assignment, and descriptions of the reasonably foreseeable impact of the planned changes.¹⁸ The requirements already require the name of a contact person to field additional questions.¹⁹ There is no evidence that ILECs are not complying with these requirements; consequently, there is no need to place additional burdens on the process.

E. Continuation of Reasonably Comparable Wholesale Platform Condition:

There is no lawful basis upon which the Commission could turn its interim requirements related to continuation of commercial wholesale platform services²⁰ into long-term requirements because those services are neither Title II offerings nor interstate services. To the contrary, they

¹⁸ See 47 CFR § 51.327.

¹⁹ *Id.*

²⁰ FNPRM at ¶ 243.

are wholesale arrangements for local exchange capability that are offered on a private carriage basis.

Nor is there any need for Commission intervention in this space in all events. When the Commission eliminated the requirement to provide unbundled local switching, it eliminated the requirement for ILECs to provide the UNE platform service (UNE-P). The Commission recognized at the time that ILECs were voluntarily offering alternative wholesale platform arrangements under commercially negotiated terms.²¹ AT&T has continued to do just that and without legal compulsion. In fact, Granite's CEO, President, and Founder stated that Granite "could not be more pleased to continue our successful collaboration with AT&T" and described the commercial agreement as "great for both AT&T and Granite, but most important is the benefit for Granite's customers, who can count on receiving high quality communications products and services for many years to come."²² Because this proposal is unlawful and unnecessary, it should be rejected.

²¹ *Unbundled Access To Network Elements*, WC Docket No. 04-313, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, [FCC 04-179](#), Order and Notice of Proposed Rulemaking, 19 FCC Rcd 16783 at ¶ 29 (2004).

²² Granite Telecommunications, LLC Press Release (Oct. 28, 2014), *available at* <http://www.granitenet.com/GetFile/Granite%20and%20ATT%20Extend%20Commercial%20Agreement.pdf> (last checked October 19, 2015).

VI. CONCLUSION

For all of the reasons discussed above, the Commission should not adopt the detailed “adequate substitute” criteria proposed in the *Further Notice*, but if the Commission adopts any such metrics it must modify them as discussed herein.

Respectfully submitted

/s/ Terri L. Hoskins

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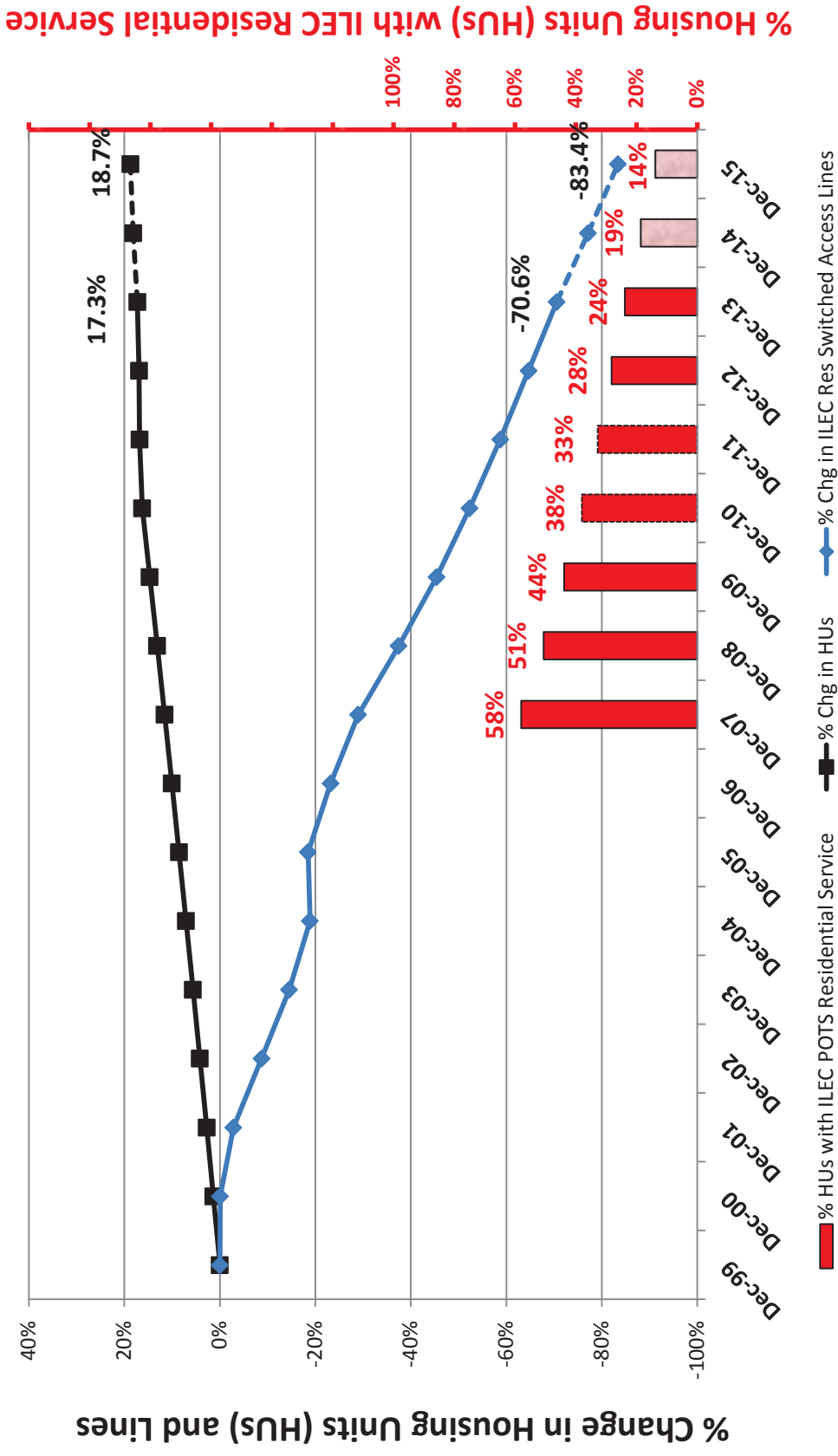
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ATTACHMENT A

Statewide Change in Housing Units and ILEC Residential Lines

AT&T States, December 1999 - December 2015



Data Source:

- ILEC Res Lines from FCC Local Telephone Competition Reports
- Housing Units are linear plots of values from 1990, 2000, 2010 Census plus ACS 2011 thru 2013 1 Yr Estimates
- Data for 2014 and 2015 are estimates using linear trending